



Town Council Agenda Report

Date: May 28, 2019 Item No. 11

To: Honorable Mayor and Town Council

Subject: INTRODUCE ORDINANCE NO. 510 – AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 11 OF THE APPLE VALLEY MUNICIPAL CODE TO ADD CHAPTER 11.110 REGARDING UNLAWFUL LOUD OR UNRULY GATHERINGS

From: Douglas Robertson, Town Manager

Submitted by: Guy Eisenbrey, Code Enforcement Manager
Code Enforcement

Budgeted Item: Yes No N/A

RECOMMENDED ACTION

- A. **Find** that the proposed adoption of Ordinance No. 510 is not subject to and is exempt from CEQA based upon a finding that, under section 15061(b)(3) of the CEQA Guidelines, it can be seen with certainty that there is no possibility that the proposed amendment may have a significant effect on the environment.
- B. **Move** to waive the reading of Ordinance No. 510 in its entirety and read by title only.
- C. **Move** to introduce Ordinance No. 510 amending Title 11 as it relates to the addition of Chapter 11.110 Unlawful Loud or Unruly Gatherings.
- D. **Direct** staff to file a Notice of Exemption.

SUMMARY

It is necessary to review the language of the Town's Municipal Code from time to time to ensure that it aligns with the intent of Town Council's goals and directives and best business practices, as determined by professional and expert staff. This amendment serves to add Chapter 11.110 Unlawful Loud or Unruly Gatherings to the Municipal Code for the following reasons: to deter the occurrence of loud and unruly gatherings; to recover resources associated with repeated responses required to abate the nuisance; to

enhance the general peace, safety, and welfare of the residents of the Town of Apple Valley by reducing the deployment of enforcement personnel to loud or unruly gatherings; and to uphold the Town Council's intent. As a result of this review, the following changes are proposed to be made to the Municipal Code.

BACKGROUND

Loud or unruly gatherings are a drain on the Town of Apple Valley's limited public safety resources. These gatherings are a nuisance and are often the cause or origin of other associated criminal activities. As a result, the general peace, safety, and welfare of the Town's residents is put at risk by such gatherings.

The Town's public safety personnel and other resources are generally allocated to regular patrol duties or activities, but are often used to respond to loud or unruly gatherings. In some instances, the gatherings require multiple responses utilizing several personnel and their equipment, including patrol vehicles and air support (helicopters or fixed wing). These limited resources must be shifted when enforcement officers have to respond multiple times to the same loud or unruly gathering. The problems associated with scarce manpower and resources are only exacerbated by this persistent and unbudgeted reallocation of resources.

The purpose of this amendment is to deter the occurrence of loud or unruly gatherings and to recover the resources used when repeated response is required to abate the nuisance created by such gatherings. Its intent is to enhance the general peace, safety, and welfare of the residents of the Town of Apple Valley by reducing the deployment of enforcement personnel to loud and unruly gatherings.

None of these proposed changes intends to alter the Town Council's overarching intent of the Code itself.

{A ~~strikethrough~~ in the municipal code text shows proposed deletions and **bold with underlined** text shows proposed additions to the code sections}

ATTACHMENTS

Ordinance No. 510

ORDINANCE NO. 510

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 11 OF THE APPLE VALLEY MUNICIPAL CODE TO ADD CHAPTER 11.110 REGARDING UNLAWFUL LOUD OR UNRULY GATHERINGS

WHEREAS, the amendments are necessary to deter the occurrence of loud and unruly gatherings;

WHEREAS, the amendments are necessary to recover resources associated with repeated responses required to abate the nuisance; and

WHEREAS, the amendments are also necessary to enhance the general peace, safety, and welfare of the residents of the Town of Apple Valley by reducing the deployment of enforcement personnel to loud or unruly gatherings; and

WHEREAS, the amendments are necessary to uphold the Town Council's intent of the Code; and

WHEREAS, it is in the best interest of the Town to add the provisions of Chapter 11.110 (entitled "Unlawful Loud or Unruly Gatherings") of Title 11 of the Apple Valley Municipal Code.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 11.110 of Title 11 of the Town of Apple Valley Municipal Code is hereby added to read in its entirety as follows:

Chapter 11.110 – UNLAWFUL LOUD OR UNRULY GATHERINGS

11.110.010 - Definitions.

In addition to definitions located elsewhere in this code and as used in this Chapter, the following terms shall have the following meanings:

(a) "Enforcement officer service cost" means all costs of personnel and equipment for the amount of time actually spent in responding to or in remaining at a specific place or location including, but not limited to, the salaries of the enforcement officer personnel, the actual costs of any medical treatment to injured officers, the costs of repairing any damaged Town equipment or property, and administrative costs related to all of the foregoing.

(b) "Person responsible or responsible person" shall mean a person(s) with a right of possession in the property or premises on which a loud or unruly gathering is conducted, including, but not limited to, an owner or tenant of

the property if the gathering is on private property, or a permittee, if the gathering is a permitted gathering on public property, or any person(s) accepting responsibility for such a gathering. Person responsible or responsible person shall additionally include the person or persons who has or have authorized the use of the property/premises for the loud or unruly gathering; and/or the person or persons who has or have organized the loud or unruly gathering or who were or are responsible therefor. Responsible person shall not include any governmental entity.

(c) "Loud or unruly gathering" is a nuisance and shall mean a gathering of two or more persons on private or public property whose loud or unruly conduct constitutes a substantial disturbance of the quiet enjoyment of public or private property, and generally threatens the public health, safety, quiet enjoyment of property or general welfare. Loud or unruly gatherings are frequently accompanied by the following types of conduct:

1. Excessive noise or traffic;
2. Obstruction of public streets by crowds or vehicles;
3. Obstruction of rights-of-way by people or vehicles;
4. Public drunkenness;
5. Assaults, batteries, fights or other disturbances of the peace;
6. Vandalism;
7. Littering; or
8. Urinating or defecating in public.

Loud or unruly conduct does not include any activity that is:

1. Protected by Article 1, Section 4 of the California Constitution;
2. Protected by the First or Fourteenth Amendments to the United States Constitution;
3. Regulated by the California Alcoholic Beverage Control Act; or
4. Constituted as domestic violence.

(d) "Party goer or attendee" means anyone who is present, excluding the home owner, or person responsible, of any loud or unruly gathering as defined in this Chapter.

11.110.020 - Purpose and intent.

The purpose of this Chapter is to deter the occurrence of loud or unruly gatherings and to recover enforcement costs when repeated responses are required to abate the nuisance. This Chapter is intended to enhance the general peace, safety, and welfare of the residents of the Town of Apple Valley by reducing the deployment of enforcement personnel to loud and unruly gatherings.

11.110.030 - Declaration of public nuisance.

Loud or unruly gatherings shall constitute a public nuisance. The Town shall have the right to abate said nuisance in the manner authorized in Chapter 6.30 of this code.

11.110.040 - Loud or unruly gatherings prohibited.

It is unlawful and a violation of this Chapter for any responsible person to suffer, permit, allow, or host a loud or unruly gathering on public or private property, place or premises under his or her control. Any and all responsible persons shall be jointly and severally liable for any violation of this Chapter, except where the person responsible is a minor, in which case the parents or guardians of that minor shall be jointly and severally liable for any violation of this Chapter. Domestic violence issues are specifically exempted from this Chapter.

11.110.050 - First warning.

The Town shall issue one warning to the responsible person upon response to a loud or unruly gathering. To the extent feasible, although not required, each warning shall be documented and mailed by the Town to each responsible person.

11.110.060 - Administrative citation authorized.

- (a) Administrative citation. When an enforcement officer responds to a loud or unruly gathering at the premises with a given address in the Town within twelve months of a warning given to a responsible person, and the enforcement officer determines a violation of this Chapter has occurred or exists, the enforcement officer has the authority to issue an administrative citation to any responsible person, pursuant to Section 1.01.200 of this code.**
- (b) Administrative citation procedures. All procedures, including appeal procedures, set forth in Section 1.01.200 of this code shall be applicable to administrative citations issued for violations of this Chapter. However, in the event of any conflict between the provisions of this Chapter and Section 1.01.200, the provisions of this Chapter shall govern.**
- (c) Fines applicable to responsible person. The administrative citation fees shall be as follows for the responsible person:**
 - 1. A fine in the amount of five hundred dollars (\$500.00) for a first violation;**
 - 2. A fine in the amount of seven hundred fifty dollars (\$750.00) for a second violation within six months of the first violation;**
 - 3. A fine in the amount of one thousand dollars (\$1,000.00) for a third and any subsequent violations within six months of the second violation.**
- (d) Fines applicable to attendee. The administrative citation fine shall be as follows for the party goer or attendee of a loud or unruly gathering:**
 - 1. A fine in the amount of one hundred dollars (\$100.00) for a first violation and any subsequent violations within six months of the first violation.**
- (e) Penalties. Each and every day a violation of any provision set forth in this Chapter exists, constitutes a separate and distinct violation.**
- (f) Assessment of penalties. Administrative fine penalties shall be assessed in the manner provided in Section 1.01.200.**

11.110.070 – Recovery of Costs Associated to Unlawful Loud or Unruly Gatherings.

The person or persons responsible for causing or maintaining the public nuisance shall be responsible for all costs related to the abatement of the public nuisance in accordance with Section 1.01.260 of this Code.

11.110.080 - Cumulative Remedies.

The remedies provided under this Chapter are cumulative and shall not restrict the Town's ability to pursue any other remedy to which it is entitled under law or equity. Nothing in this Chapter shall be deemed to preclude the imposition of any criminal penalty, nor shall anything in this Chapter be deemed to conflict with any penalty or provision under state law, or prohibit any conduct authorized by the state or federal constitutions.

Section 2. Except as expressly amended hereby, all other provisions of Title 11 of the Town of Apple Valley Municipal Code shall remain in effect.

Section 3. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this Ordinance are declared to be severable.

Section 4. Effective Date. This Ordinance shall become effective thirty days from and after its adoption.

Section 5. Notice of Adoption. The Town Clerk of the Town of Apple Valley shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the Town in a manner permitted under section 36933 of the Government Code.

APPROVED and **ADOPTED** by the Town Council and signed by the Mayor and attested by the Town Clerk this ___ day of _____, 2019.

Larry Cusack, Mayor

ATTEST:

La Vonda M-Pearson, Town Clerk

APPROVED AS TO FORM:

Thomas Rice, Town Attorney

APPROVED AS TO CONTENT:

Douglas B. Robertson, Town Manager